

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(b)

RAS Citron, LLC
130 Clinton Road, Suite 202
Fairfield, NJ 07004
Telephone: 973-575-0707
Attorneys for Secured Creditor

Laura M. Egerman (LE-8250)

In Re:

**JOHN KELLY and
PEGGY A. KELLY,**

Debtors.

Case No.: 18-28974-MBK

Chapter: 13

Judge: Michael B. Kaplan

OBJECTION TO DEBTOR'S APPLICATION TO EXTEND LOSS MITIGATION

The undersigned, RAS Citron, LLC, attorneys for Secured Creditor, Nationstar Mortgage LLC d/b/a Mr. Cooper (hereinafter "Secured Creditor"), the holder of the Mortgage on Debtors' property commonly known as 519 Alfred Road, South Toms River, New Jersey 08757, hereby objects to the Debtors' Application for Extension of Loss Mitigation (Docket #76) as follows:

1. Debtors John Kelly and Peggy A. Kelly (hereinafter 'Debtors') filed the instant Chapter 13 Petition on September 24, 2018.

2. Secured Creditor holds a security interest in the Debtors' real property located at 519 Alfred Road, South Toms River, New Jersey 08757 (the "Property") by virtue of a Mortgage in the principal amount of \$293,550.00, recorded February 9, 2007 in Book OR-13518, Page 1648, in the Office of the Clerk/Register of Deeds for Ocean County, New Jersey.

3. Debtors filed their request to participate in the Court's loss mitigation program on November 4, 2018 (Docket #20). An order granting this request was entered on November 30, 2018 (Docket #21).

4. Debtors opened the DMM Portal on December 17, 2018. A copy of the DMM Portal History is attached as Exhibit A.

5. On December 29, 2018, Secured Creditor issued a Denial Letter. A copy of the Denial Letter is attached as Exhibit B. The Denial Letter was also uploaded to the DMM Portal on January 4, 2019.

6. From the date of the Denial Letter, Debtors had 30 days to file an appeal of the denial. No appeal was filed.

7. Further, Debtors have defaulted under the Loss Mitigation Order (Docket 21) by failing to make the required adequate protection payments. Secured Creditor has filed a Motion for Relief from the Automatic Stay (Docket 31).

8. Debtors now seek an extension of loss mitigation.

9. Debtors are not actively participating in loss mitigation at this time, and there is no basis for allowing Debtors to remain in the Court's Loss Mitigation Program. Debtors have the option to pursue loss mitigation outside of the Court's program.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny Debtors' application for extension of loss mitigation, and for such other and further relief as the Court may deem just and proper.

Dated: April 2, 2019

RAS Citron, LLC
130 Clinton Road, Suite 202
Fairfield, NJ 07004
Telephone: 973-575-0707
Attorneys for Secured Creditor

By: /s/ Laura Egerman
Laura M. Egerman, Esquire
Bar ID: LE-8250
Email: legerman@rasnj.com

Exhibit A

Borrower Name: Kelly, John
Property Address: 519 Alfred Road South Toms River, NJ 08757
Servicer Name: Nationstar Mortgage, LLC
Loan Number: [REDACTED]

Full History

Date	Activity By	Action Taken
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12/17/2018 02:32:16 PM ET	Attorney	File Submitted
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File Submitted by Daniel Straffi, Jr..

The following documents were submitted:

[Kelly \(Loan # \[REDACTED\]\) - HAMP Request for Mortgage Assistance \(RMA\) \(Added 12-17-2018\)](#)
[Kelly \(Loan # \[REDACTED\]\) - Uniform Borrower Assistance Form \(Added 12-17-2018\)](#)
[Kelly \(Loan # \[REDACTED\]\) - Mortgage Assistance Application Form 710 \(Added 12-17-2018\)](#)
[Kelly \(Loan # \[REDACTED\]\) - Dodd-Frank Certification \(Added 12-17-2018\)](#)
[Kelly \(Loan # \[REDACTED\]\) - Government Monitoring Data \(Added 12-17-2018\)](#)
[Kelly \(Loan # \[REDACTED\]\) - Loss Mitigation Order \(Added 12-17-2018\)](#)

12/19/2018 12:07:39 PM ET	Servicer	Account Change
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File Changed by: Kristi Berry.

Change(s):

Loan Number changed from [REDACTED] to [REDACTED].

12/19/2018 04:45:10 PM ET	Attorney	Borrower Docs Uploaded
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Daniel Straffi, Jr. added the following documents: [Kelly \(Loan # \[REDACTED\]\) - Hardship Letter \(Added 12-19-2018\)](#)
[Kelly \(Loan # \[REDACTED\]\) - INCOME LETTER \(Added 12-19-2018\)](#)
[Kelly \(Loan # \[REDACTED\]\) - Most Recent 2 Tax Returns \(Added 12-19-2018\)](#)
[Kelly \(Loan # \[REDACTED\]\) - Most Recent 2 Months Bank Statements \(Added 12-19-2018\)](#)
[Kelly \(Loan # \[REDACTED\]\) - Proof of Occupancy \(Added 12-19-2018\)](#)

12/21/2018 05:17:57 PM ET	Servicer	File Opened
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File Opened by Kristi Berry

12/21/2018 05:18:31 PM ET	Servicer	Message Sent
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From: Kristi Berry (Servicer)

Message:

Hello,

The file has been placed into review once there is an update I will let you know.

Thank you

01/04/2019 09:31:00 AM ET	Servicer	Docs Complete Notice
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File Completed by: Kristi Berry.

Message:

Date

Activity By

Action Taken

01/04/2019 09:32:05 AM ET

Servicer

Decision Reported

Decision reported by Kristi Berry.

Message: Denied: The modification has been denied. Attached is a copy of the denial letter.

Attached Files:

[Kelly \(Loan # \[REDACTED\]\) - \[REDACTED\]-KELLY.pdf \(Added 01-04-2019\)](#)

03/19/2019 02:35:14 PM ET

Servicer

Closed/Final Result

File Closed by: Kristi Berry.

Final Result: No Workout.

Message:

No Workout

Exhibit B

12/29/2018



8950 Cypress Waters Blvd.
Coppell, TX 75019

OUR INFO

ONLINE

www.mrcooper.com

YOUR CLIENT'S INFO

DEBTOR(S)

JOHN KELLY

PEGGY KELLY

CASE NUMBER

1828974

LOAN NUMBER

PROPERTY ADDRESS

519 ALFRED RD

SOUTH TOMS RIVER, NJ 08757

STRAFFI & STRAFFI LLC
670 COMMONS WAY
TOMS RIVER NJ 08755

Dear STRAFFI & STRAFFI LLC:

Our records indicate that you represent John Kelly and Peggy Kelly (hereinafter "your client") in the above-referenced Bankruptcy proceeding.

The enclosed letter is intended for your client. We have sent this letter to you because of the attorney/client relationship and the above-referenced loan is presumably a subject of your legal representation. Therefore, we consider service of the attached letter as service to your client.

At your earliest convenience, please review the attached and forward to your client.

If you or your client have any questions, your client(s) Dedicated Loan Specialist is Kristi Berry and can be reached at (866)-316-2432 or via mail at the address listed above. Our hours of operation are Monday through Thursday 7 am to 8 pm (CT), Friday 7 am to 7 pm (CT) and Saturday 8 am to 12 pm (CT).

Sincerely,

Mr. Cooper

Enclosure(s)



12/29/2018



8950 Cypress Waters Blvd.
Coppell, TX 75019

OUR INFO

ONLINE

www.mrcooper.com

YOUR INFO

DEBTOR(S)

JOHN KELLY

PEGGY KELLY

CASE NUMBER

1828974

LOAN NUMBER

PROPERTY ADDRESS

519 ALFRED RD

SOUTH TOMS RIVER, NJ 08757

JOHN KELLY
519 ALFRED RD
SOUTH TOMS RIVER, NJ 08757

Dear JOHN KELLY:

We have reviewed your application for mortgage assistance. Please find a summary of the programs for which you were evaluated below, based on the eligibility requirements of Freddie Mac, the owner/guarantor/trustee of the mortgage loan. Freddie Mac requires us to review your application for the options available to you in a certain order. This means that if you are approved for an option higher in the order, you may not qualify for options that are lower down on the list.

Please note that we have reviewed you for options that would allow you to keep the property and for options that would mean that you would not keep the property. Although you may have requested a specific loss mitigation option, we have evaluated you for all other available options to ensure you have sufficient information to make an informed decision.

- **Flex Modification** - Declined
- **Short Sale** - Conditionally Approved
- **Deed In Lieu** - Conditionally Approved

Detailed information about the available loss mitigation programs and our analysis of your eligibility are provided below. You may find you are approved, or conditionally approved, for several different options. If you are eligible for more than one option, you may only accept one offer. Please note the deadlines to respond to each offer because if you do not respond in time, we will treat that as a rejection of the offer. To appeal a modification denial, you must appeal by the specified deadline.

Please be sure to read the instructions related to each option carefully. Please note that, unless specified otherwise, the instructions in each section relate only to the option discussed in that section.

I. Retention Option: Retention options allow a borrower to continue to make payments and remain in the property.

A. Modification: A modification changes the terms of the loan to cure past-due amounts and usually provides for more affordable payments.

Modification Program Review

You were evaluated for mortgage payment assistance based on the eligibility requirements of Freddie Mac, but were declined for the following program(s).

- **Flex Modification** - Declined

Mr. Cooper is a brand name for Nationstar Mortgage LLC. Nationstar Mortgage LLC is doing business as Nationstar Mortgage LLC d/b/a Mr. Cooper. Mr. Cooper is a registered service mark of Nationstar Mortgage LLC. All rights reserved.

Please be advised this communication is sent for informational purposes only and is not intended as an attempt to collect, assess, or recover a claim against, or demand payment from, any individual protected by the U.S. Bankruptcy Code. If this account has been discharged in a bankruptcy proceeding, be advised this communication is for informational purposes only and not an attempt to collect a debt against you; however, the servicer/lender reserves the right to exercise the legal rights only against the property securing the loan obligation, including the right to foreclose its lien under appropriate circumstances. Nothing in this communication shall be construed as an attempt to collect against the borrower personally or an attempt to revive personal liability.

If you are a successor in interest (received the property from a relative through death, devise, or divorce, and you are not a borrower on the loan) that has not assumed, or otherwise become obligated on the debt, this communication is for informational purposes only and is not an attempt to collect a debt from you personally.



- **Denial Reason:** Accepted Alternate Workout

We are not considering your request for a modification because you are currently performing under another alternative to foreclosure.

Please note, as the servicer of the loan, we are responsible for responding to any questions related to investor requirements or the review of your request for assistance.

Right to Appeal

You have the right to appeal the loan modification denial within 30 calendar days from the date of this notice. The appeal must be in writing, state that you are requesting an appeal of our decision, and must be sent to the mailing address below. You must include in the appeal your name, property address, and mortgage loan number. Please specify the basis for your dispute, and include any documentation you believe is relevant to the appeal, such as property valuation or proof of income.

Mr. Cooper
Attn: Notice of Error/Request for Information
PO Box 619098
Dallas, TX 75261-9741

If you elect to appeal, we will provide you a written notice of our appeal decision within 30 calendar days of receiving your appeal. Our appeal decision is final, and not subject to further appeal.

II. Non-Retention Option: A non-retention option allows a borrower to transition out of their property without going through foreclosure. Non-retention options include Short Sales or Deeds-In-Lieu (sometimes known as a Mortgage Release)

A. Short Sale: This option permits a borrower to sell their home for less than the balance remaining on the mortgage loan. Depending upon applicable law and investor requirements, a borrower may or may not be required to pay funds to reduce the difference between the amount owed and the approved purchase price.

Based on a careful review of your information, we are offering you an opportunity to pursue a short sale subject to the conditions set forth below. A final decision on the short sale is contingent upon our review of the purchase contract and any applicable Investor requirements. If the purchase contract is acceptable, you will receive a written final approval and closing information. If the purchase contract is unacceptable, we will notify you that the Short Sale is not approved.

If you are interested in selling your property through a Short Sale, please follow the steps below.

1. Contact us at 866-316-2432 or in writing at PO Box 619097, Dallas, TX 75261 no later than 1/12/19 to indicate your intent to accept this offer to pursue a short sale. If you indicate your intent to accept this offer we will defer or suspend foreclosure action on your loan until 2/12/19 while you attempt to sell your home. If you do not contact us by 1/12/19 to accept this offer, and you have not accepted another loss mitigation option or appealed our denial of a modification, we may start or continue foreclosure and a foreclosure sale may occur.
2. If you have not already done so, you will need to contact a real estate agent and list the property for sale. If you wish us to work directly with your real estate agent or another party on your behalf, you will need to provide a Third Party Authorization to us. You can obtain a Third Party Authorization form on our website at www.mrcooper.com.
 - If you need help finding a real estate agent, contact your Single Point of Contact (SPOC) who can refer you to a listing agent in your area.
3. If you have not already done so, have your real estate agent initiate a Short Sale case in Equator (our system of record) at www.equator.com to start the Short Sale review.
4. If you have not already done so, have your real estate agent provide the following documents in Equator once they are available:
 - Third Party Authorization
 - Multiple Listing Service (MLS)
 - Listing Agreement
 - Purchase Agreement (if you have an offer)
 - Proposed Closing Disclosure or Settlement Statement (if you have an offer)
 - Buyer's Proof of Funds (if you have an offer)

Note: Based on Investor requirements, additional documentation may be required

We will review any offers that are received for acceptability. Please be prepared to allow access to the property for an interior valuation of your home.

In some cases, a short sale auction may be required as part of the evaluation process to either help find an offer or validate an offer you already have. If an auction is required, you will be given further information and asked to sign a Short Sale Auction Agreement.

If you are not able to obtain a purchase offer that is acceptable to us by 2/12/19, you may continue your short sale effort, but we may commence or continue foreclosure. We may review any purchase offer submitted, but only if there is adequate time to evaluate the offer prior to the foreclosure sale date.

NOTE: Cancellation of debt may have tax consequences. Please consult your tax advisor to discuss potential tax consequences.

B. Deed-in-Lieu/Mortgage Release: A Deed-in-Lieu, also called a "Mortgage Release", permits a borrower to voluntarily transfer the property to the owner of the mortgage to satisfy the debt. Depending upon applicable law and investor requirements, the borrower may be required to pay funds to reduce the difference between the amount owed on the loan and the value of the property being transferred.

Based on a careful review of your information, you have been conditionally approved to pursue a Deed-in-Lieu of foreclosure/Mortgage Release.

If you are interested in transferring the property through a Deed-in-Lieu/Mortgage Release, please follow the steps below.

1. Contact us at 866-316-2432 or in writing at PO Box 619097, Dallas, TX 75261 no later than 1/12/19 to indicate your intent to accept this offer to pursue a Deed In Lieu/Mortgage Release. If you indicate your intent to accept this offer we will not refer your loan to foreclosure, or if your loan has been referred to foreclosure, we will suspend the next action in the foreclosure proceedings. If you do not contact us by this date to accept this offer, and you have not accepted another loss mitigation alternative or appealed our denial of a modification, or if you accept but we are unable to complete the Deed In Lieu/Mortgage Release within 45 days of your acceptance, we may start or continue with the foreclosure process and a foreclosure sale may occur.
2. If you have not already done so, go to https://www.mrcooper.com/reference_documents/statement_of_information.pdf to obtain a Statement of Information form. You can also contact your Single Point of Contact and you will be provided with a copy of the form. Make sure all Borrowers on the mortgage have completed, and signed the Statement of Information. Please submit the Statement of Information Form as soon as possible. This provides us with important additional information that we need to start the Deed-in-Lieu/ Mortgage Release final review.
 - o Online: www.mrcooper.com
 - o Email: modification.assistance@mrcooper.com
 - o Fax: 214-488-1993
 - o Mail: Attn: Loan Modification Processing Unit -PO Box 619097, Dallas, TX 75261

This approval is conditioned upon a clear title, and if there are any junior lienholders, they must release their interest in the property. You and any other occupants will be required to vacate the property and must leave it in broom swept condition, free of trash, debris or damage, and all personal belongings must be removed. You will need to provide access so that we can conduct an interior inspection of the property. The completion of the Deed-in-lieu/Mortgage Release is still subject to investor and our guidelines.

NOTE: Cancellation of debt may have tax consequences. Please consult your tax advisor to discuss potential tax consequences.

[Additional Information Related to All Loss Mitigation Options](#)

Automated valuation only (electronic, no printed document): An automated valuation was developed in connection with your application for loss mitigation. The property valuation provided to us electronically was \$183,019.00. There is no available written documentation associated with this valuation.

Visit us on the web at www.mrcooper.com for more information.

Notice: The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is: Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

If you have any questions, your Dedicated Loan Specialist is Kristi Berry and can be reached at (866)-316-2432 or via mail at PO Box 619097, Dallas, TX 75261. Our hours of operation are Monday through Thursday 7 am to 8 pm (CT), Friday 7 am to 7 pm (CT) and Saturday 8 am to 12 pm (CT). Visit us on the web at www.mrcooper.com for more information.

Sincerely,

Mr. Cooper

Notices of Error:

If you believe an error has been made with respect to your mortgage loan, you should provide to us in writing the following information: Your name (and the name of the borrower, if you are an authorized third party), the loan account number, and the error you believe has occurred. To submit a notice of error, you must send this information to the following address:

Mr. Cooper
Notice of Error/Request for Information
PO Box 619098
Dallas, TX 75261-9741

Requests for Information:

To request information regarding your account, you should provide to us in writing the following information: Your name (and the name of the borrower, if you are an authorized third party), the loan account number, and the information you are requesting with respect to your mortgage loan. To submit a request for information, you must send this information to the following address:

Mr. Cooper
Notice of Error/Request for Information
PO Box 619098
Dallas, TX 75261-9741

UNITED STATES BANKRUPTCY COURT
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RAS Citron, LLC
130 Clinton Road, Suite 202
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Telephone: 973-575-0707
Attorneys for Secured Creditor

Laura M. Egerman (LE-8250)

In Re:

**JOHN KELLY and
PEGGY A. KELLY,

Debtors.**

Case No.: 18-28974-MBK

Chapter: 13

Judge: Michael B. Kaplan

CERTIFICATION OF SERVICE

1. I, Laura Egerman, represent Nationstar Mortgage LLC d/b/a Mr. Cooper in this matter.
2. On April 2, 2019, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below: Objection to Debtors' Application to Extend Loss Mitigation.
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Dated: April 2, 2019

RAS Citron, LLC
130 Clinton Road, Suite 202
Fairfield, NJ 07004
Telephone: 973-575-0707
Attorneys for Secured Creditor

By: /s/ Laura Egerman
Laura M. Egerman, Esquire
Bar ID: LE-8250
Email: legerman@rasnj.com

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
<p>John Kelly 519 Alfred Road South Toms River, NJ 08757</p> <p>Peggy A. Kelly 519 Alfred Road South Toms River, NJ 08757</p>	Debtors	<p><input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)</p>
<p>Daniel E. Straffi Straffi & Straffi, LLC 670 Commons Way Toms River, NJ 08755</p>	Attorney for Debtors	<p><input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)</p>
<p>Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853</p>	Trustee	<p><input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)</p>
<p>US Trustee US Department of Justice Office of the US Trustee One Newark Center, Suite 2100 Newark, NJ 07102</p>	US Trustee	<p><input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)</p>